

November 8, 2001

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON PRELIMINARY PLAT APPLICATION

SUBJECT: Department of Development and Environmental Services File No. **L01P0006**

LINDA'S TERRACE
Preliminary Plat Application

Location: Along 242nd Avenue Southeast, at the east end of Southeast 47th Place

Applicant: Barbara Yarrington, *represented by*
Robert Johns, Attorney at Law
1500 – 114th Avenue SE, #102
Bellevue, WA 98004
Telephone: (425) 467-9960
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King County: Department of Development and Environmental Services,
Land Use Services Division, *represented by*
Kimberly Claussen
900 Oakesdale Avenue SW
Renton, WA 98055-1219
Telephone: (206) 296-7167
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SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions
Complete Application:	April 9, 2001

EXAMINER PROCEEDINGS:

Hearing Opened:	November 6, 2001
Hearing Closed:	November 6, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Drainage ponds

SUMMARY:

The preliminary plat application is approved, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

Owner:	Gurdial & Patricia Dhatt 24320 SE 48 th Street Issaquah, WA 98029
Developer:	Barbara Yarrington Pacific Properties, Inc 14410 Bel-Red Road, Suite 200 Bellevue, WA 98007 (425) 644-8140
Engineer:	Barghausen Consulting Engineers 18215 72 nd Avenue S Kent, WA 98032 (425) 251-6222
STR:	15-24-06
Location:	The site is located along 242 nd AVE SE, at the east end of SE 47 th PL.
Zoning:	R-6
Acreage:	2.91 acres
Number of Lots:	11
Density:	4 units per acre
Lot Size:	Ranges from approximately 6,300 to 9,500 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Sammamish Plateau Water & Sewer District
Water Supply:	Sammamish Plateau Water & Sewer District
Fire District:	King County District #10
School District:	Issaquah

1. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the November 6, 2001 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.

2. Pacific Properties has filed a preliminary plat application to subdivide 2.91 acres into 11 lots for single family residential development. The application is for infill development within an existing residential neighborhood located on the East Sammamish Plateau in the Laughing Jacobs Creek drainage.
3. Due to downstream flooding problems and water quality concerns, the project is being required to provide Level 3 Flow Control as well as water quality treatment pursuant to the Sensitive Lake Protection Menu. In addition, the plat's drainage facility will provide service to an adjacent short plat being developed on the site's eastern boundary. As a result, a rather large two-celled wet pond is proposed for the site's northwest corner. Concerns that this facility not become an unsightly nuisance have been expressed by neighboring property owners, whose spokesman at the public hearing was Charles Jennings. Mr. Jennings' comment letter proposes that the Applicant be required to "create an integrated pest/vegetation management plan . . . targeted at the aquatic stage of mosquitoes and noxious weeds and providing an aesthetic natural area." Mr. Jennings favors imposing a rigorous pond maintenance regime to be supported by homeowner's association assessments. He prefers a maintenance schedule that entails the mowing of pond vegetation at least twice annually.
4. While Mr. Jennings' suggestions are not without merit, they go beyond the requirements stated within the 1998 Surface Water Design Manual. The R/D tract will be dedicated to King County and, at this point, there is no legal mechanism for requiring homeowner's association support of the maintenance function. Also, insect control is not a part of the county's current maintenance menu. Section 6.4.1.2 of the 1998 Surface Water Design Manual does require within a sensitive lake protection area that shrubs forming a dense cover be planted on slopes above the pond's design water level. This provision applies to Linda's Terrace, and if shrubs are properly selected, minimal maintenance of the pond's slopes should be necessary. A condition has been added to the decision that spells out this requirement.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for Linda's Terrace, as revised and received on July 16, 2001, is APPROVED, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.

3. The plat shall comply with the base density (and minimum density) requirements of the R6 zone classification. All lots shall meet the minimum dimensional requirements of the R6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The stormwater retention/detention facility shall be designed using the Level 3 Flow Control methodology in the 1998 King County Surface Water Design Manual (KCSWDM), unless otherwise approved by DDES.
 - e. The water quality design shall meet the Sensitive Lake Protection Menu requirements in Core Requirement 8 and Chapter 6 of the 1998 KCSWDM.
 - f. A surface water adjustment (L01V0056) was approved for this development. All conditions of approval for this adjustment shall be met upon submittal of the engineering plans.

- g. Shrubs that form a dense cover, as required for wet ponds in a sensitive lake protection area under authority of Section 6.4.1.2 of the Surface Water Design Manual, shall be planted on the pond's slopes above the water quality design water surface on at least three sides, including both exterior plat boundaries. Shrubs shall be selected on the basis of their capacity to create a vegetative cover that requires minimal maintenance, as approved by DDES.
7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. The internal access road (SE 47th PL extension) shall be improved to the urban subaccess street standard.
 - b. FRONTAGE: The frontage along 242nd Avenue SE (north of SE 47th PL) shall be improved to the urban subcollector street standard.
 - c. FRONTAGE: The frontage along 242nd Avenue SE (south of SE 47th PL) shall be improved to the urban subaccess street standard.
 - d. Tract B shall be improved as a private access tract per Section 2.09 of the 1993 KCRS.
 - e. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
 8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

There shall be no direct vehicular access to or from 242nd Avenue SE from those lots that abut it. A note to this effect shall appear on the engineering plans and final plat.

Lots 7 - 10 shall have undivided ownership of Tract B and be responsible for its maintenance. A note to this effect shall be placed on the engineering plans and final plat.

11. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., area calcs, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
12. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tract.
13. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 242nd Avenue SE is on a bus route. If 242nd Avenue SE is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be

submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

14. The Applicant shall comply with the seasonal clearing restrictions per KCC 16.82.150D.

15. The existing house and outbuilding(s) shall be removed prior to recording of the plat.

ORDERED this 8th day of November.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 8th day of November, to the parties and interested persons of record:

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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before November 22, 2001, 2001***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 29, 2001***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Court-house, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE NOVEMBER 6, 2001 PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO: L01P0006

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Kimberly Claussen and Bruce Whittaker. Participating in the hearing and representing the Applicant were Attorney Robert Johns and Robert Armstrong. Charles Jennings also participated in this hearing.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L01P0006
- Exhibit No. 2 Department of Development and Environmental Services Preliminary report, dated November 6, 2001.
- Exhibit No. 3 Application dated April 9, 2001 (complete)
- Exhibit No. 4 Environmental Checklist dated March 2, 2001
- Exhibit No. 5 Declaration of Non-significance dated August 24, 2001
- Exhibit No. 6 Affidavit of Posting indicating May 4, 2001 as date of posting and May 7, 2001 as the date the affidavit was received by the Department of Development and Environmental Services. – Notice of Application
- Exhibit No. 7 Plat Map dated July 16, 2001 & conc. Drainage plan (revision).
- Exhibit No. 8 Land Use Map 578 E/W & 579E
- Exhibit No. 9 Assessors map SW 14-24-06; SE 15-24-06; NE 22-24-6; 23-24-6
- Exhibit No. 10 Level 1 Drainage Analysis by Barghausen Engineers dated July 16, 2001 (rev)
- Exhibit No. 11 Drainage Variance decision (L01V0056) dated Oct. 4, 2001
- Exhibit No. 12 Letters from Jennings, Nickel, Sak, Peterson dated Sept. 7, 2001
- Exhibit No. 13 Conceptual recreation plan received July 15, 2001
- Exhibit No. 14 Proposed short plat (file no. L01S0037)
- Exhibit No. 15 Additional recommendation nos. 14 & 15

SLS:gao
Plats/L01P0006 RPT